

REMARKS

Claims 12-14, and 23-33 are pending. Claims 12-14, 23-31, and 33 are amended; no new matter has been added.

To completely address each of the Examiner's bases of rejection, applicants now (i) incorporate the claim amendments suggested by the Examiner, (ii) make additional arguments of record, and (iii) provide further data of record in a second Declaration under 37 C.F.R. §1.132. Applicants believe that none of these incorporates new matter nor necessitates a new search. Therefore, applicants believe this Amendment puts the application in complete condition for allowance and respectfully requests its entry.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 12-14, 23-31 and 33 are rejected under 35 U.S.C. §112 ¶2 as indefinite. Applicants have amended claims 12-14, 23-31, and 33 to recite a targeting "univalent radical", as requested by the Examiner. Applicants' amendment is solely to advance prosecution, because applicants respectfully assert that the claimed "targeting molecule" is sufficiently definite in the context of the claimed formula and the teachings of the specification.

Claims 12-14 and 23-33 are rejected under 35 U.S.C. §112 ¶1 as not enabling. Applicants disagree that undue experimentation is required to practice the invention. As part of this Amendment, applicants submit the Declaration of Dr. Rajagopalan, setting forth a synthesis for a sample compound in a step by step manner, using methods known to one skilled in the art.

Applicants disagree that they have made no assertion that there is any correlation between the biological function of radical "E" and its structure. E is stated to be a targeting group; its biological function is target binding.

Applicants respectfully assert that the claims require methods of treatment. They do not require synthesis of the compound. Applicants further disagree that a

"chemist [of ordinary skill in the art who would make applicants' compounds] would not have understood the inventor to be in possession of the claimed compounds at the time of filing. This case was filed before Applicants had a clear idea of the structures of their desired compounds, how to make their compounds, and use them."

Dr. Rajagopalan's Declaration, submitted as part of this Amendment, shows that applicants' claims are enabled and how they are enabled.

Applicants disagree that "The issues are the complete lack of any biological assays, the broad scope of the diseases to be treated, and the lack of guidance as to how tumors located within the body are to be treated by light."

Biological assays are not required, nor are data showing how to synthesize every compound in the claimed method.

The claims do not require "diseases to be treated". The claims require a method for performing a phototherapeutic procedure; the efficacy of therapy is not claimed.

The claims do not require locating tumors in the body. It is the sulfenate moieties that generate the reactive intermediates for photochemical procedures; the targeting moiety provides it to the location for photoexposure.

For example, if a patient has a breast tumor, the method would administer a compound with a binding agent for a receptor known in the art to be located in breast tissue, such as a steroid receptor. The breast is then exposed to light of the recited wavelength. Again, applicants claim the method, not the efficacy of any specific procedure for any particular patient.

Applicants disagree that "It is simply illogical that prostate, lung, colorectal, and brain tumors could be treated by phototherapy. What would be the source of light on these organs located inside the body cavity?" As previously analyzed, applicants have cited an endoscopic catheter as one example (see the specification at page 17, lines 6-9).

CONCLUSION

For the foregoing reasons, applicants submit that all the rejections have been overcome and that the application is in condition for allowance.

Applicants do not believe any fee is due with this submission. Should any fee or surcharge be deemed necessary, the Examiner is authorized to charge fees or credit any overpayment to Deposit Account No. 23-3000.

The Examiner is invited to telephone applicants' undersigned representative if there are any questions.

Respectfully submitted,
WOOD, HERRON & EVANS, L.L.P.

By Beverly A. Lyman
Beverly A. Lyman, Ph.D.
Reg. No. 41,961

2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
513 241 2324
513 421 7269 facsimile